THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 24807 of 2006

Oral order:

Assailing the award dated 17.05.2005, passed by the Labour Court, Anantapur, in I.D. No. 194 of 2002, insofar as it denied backwages, the petitioner filed the present writ petition.

On the allegation that the petitioner was involved in re-issuing of bus pass tickets, an enquiry was conducted, and based on the enquiry report, the 2nd respondent removed the petitioner from service. The petitioner unsuccessfully challenged the same in appeal and review petition. Thereupon, the petitioner raised an industrial dispute in I.D. No. 194 of 2002, and the Labour Court vide the award impugned in the writ petition, set aside the removal order, and directed reinstatement of the petitioner with continuity of service and attendant benefits, but without backwages.

The learned counsel for the petitioner submitted that the Labour Court having set aside the order of removal, and having ordered reinstatement of the petitioner with continuity of service and attendant benefits, committed an error in not granting backwages, and more so when criminal case, filed against the petitioner ended in acquittal.

On the other hand, the learned Standing Counsel for the respondent supported the impugned award, and prayed that no interference is called for therewith.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

The petitioner was removed from service on two charges, namely that he failed to punch the month of issue of three tickets and

that he having failed to punch the tickets, re-issued them. Though the enquiry officer held that the said two charges are proved, and based on the said report, the 2nd respondent removed the petitioner from service, which was confirmed in appeal and review petition, the fact remains, the Labour Court found that charge No.1 is trivial in nature, in that the unpunched bus pass tickets were not used, and that only under apprehension that the petitioner may re-issue the unpunched tickets, the respondents initiated action. Considering the trivial nature of charge No.1, the Labour Court held that punishment of removal from service was not justified. Insofar as second charge is concerned, the Labour Court held that the said charge is baseless and illegal for the ticket, which was valid from 02.11.2000 to 01.12.200, said to have been issued on 16.09.2000 as per the waybill, was not based on record.

Since the petitioner was found to be guilty of only charge No.1, which was trivial in nature, the Labour Court, felt that the authorities were not justified in imposing punishment of removal from service on the petitioner, and accordingly, set aside the order of removal, and directed reinstatement of the petitioner with continuity of service and attendant benefits, but without backwages, and no interference is called for therewith.

submitted that since the Labour Court upheld one of the two charges framed against the petitioner, charge No.1 order filed assailing the removal order, were also dismissed. The petitioner while working as Conductor with the respondent-APSRTC, was removed from service vide order dated 28.02.2002 of the respondent. Assailing the said order, the petitioner preferred appeal and review to the Divisional Manager and the Regional Manager, who vide their orders dated 21.06.2002 and 02.12.2002, confirmed the removal order.

Questioning the removal order, the petitioner raised an industrial dispute in I.D. No. 423 of 2002 before the Labour Court, which by reason of the impugned award, modified the order of removal to that of compulsory retirement from service.

The learned counsel for the petitioner submitted that the respondent recovered the short remittance before initiation of enquiry, and since short remittance does not constitute misconduct, the Labour Court committed an error in upholding the finding of the enquiry officer that the charges are proved, and modifying the order of removal to that of compulsory retirement from service.

On the other hand, the learned Standing Counsel for the respondent submitted that the charges leveled against the petitioner stood proved in the enquiry, are very serious in nature, and therefore, based on the enquiry report, the respondent removed the petitioner from service, which was confirmed in appeal as well as review, and though the Labour Court upheld the orders of the authorities, yet it had taken a lenient view and modified the order of removal to that of compulsory retirement from service, and no interference is called for therewith.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-APSRTC.

The charges leveled against the petitioner, which stood proved in the enquiry, include cash and ticket irregularities, forgery, defrauding of revenue to the respondent and misappropriation, which are very serious in nature. The petitioner, as can be seen from the award, though questioned the validity of enquiry, he did not argue on that aspect. The petitioner, it is alleged, and as proved in the enquiry, shows that though he issued more number of tickets, while remitting the amounts to the treasury, he had remitted cash for less number of

tickets by forging the signature of the ADC on the SR, and pocketed the difference amount for his personal benefit. Apart from this, the petitioner also admitted about the discrepancies in the entries made in the S.R. and way bill, and requested for pardon. Since the petitioner by manipulating the figures in the S.R. and way bill with respect to issuance of tickets, sought to defraud the respondent by showing as if he had issued less tickets and made less remittances, no exception can be taken to the award passed by the Labour Court, modifying the order of removal to that of compulsory retirement from service, and more so when the charges, which stood proved in the enquiry are very serious in nature. Merely because the short remittance was recovered from the petitioner, it does not mean that the charges leveled against him, stand erased.

For the foregoing reasons, I find no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Dated: 29th November, 2006.
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